

REMARKS

The Office Action dated June 29, 2005 has been received and reviewed by the applicant. Claims 1, 3-22 and 24-31 are in the application. Claims 1, 3-22 and 24-31 stand rejected.

Claims 13 and 14 stands objected to because of the claims recite "the first side and the second sides" which should be changed to --the first side and the second side--. Appropriate correction has been made.

Claims 1, 3-2 and 24-31 are pending and are rejected. Reconsideration is respectfully requested.

The rejection states claims 13 and 14 are unclear due to the particular grammar used. In response, claim 13 is amended to particularly point out the invention and claim 14 is canceled. Claim 11 is also objected to due to clarity. In response, claim 11 is amended for clarity.

Claims 1 and 11 are rejected under 35 USC 103 as being unpatentable over Brake et al. in view of Berstis. The rejection states, at one portion, that Brake et al. teach "each *insert* having a uniquely shaped **battery pack** mating portion on a second side ... and each second having a shape substantially of a portion of a differently shaped **battery pack** to which the removable and replaceable insert mates." (emphasis added) First, it is pointed out that claims 1 and 11 do not state "battery pack," but the claims specifically state "camera mating portion" and "digital camera" respectively. In this regard, more specifically, the rejection states "Brake does not teach that the docking station assembly is for receiving a digital camera. However, as taught by Berstis, it is well known in the art that a camera is also **constructed** as a battery pack." (emphasis added) It is respectfully submitted that this is a mischaracterization of Berstis. Berstis states;

Digital camera 102 includes I/O adapter 216, which includes connector 217, for transferring data into or out of the camera via data connector 110 and data cable 116. Digital camera 102 also includes power supply 218, which includes a battery, regulating and recharging circuitry and connector 219. This allows digital camera 102 to be powered by power supply 112 via power cable 114 and power connector 108. The other well-known components, such as viewfinder, shutter switch, and etc., are not shown. (see Berstis, Fig. 1 and col. 3, lines 9-17)

This does not teach or suggest "that a camera is also **constructed** as a battery pack." Berstis only teaches that a camera *uses* a battery as a power supply. There

is no motivation or suggestion in Berstis to construct a camera as a battery for any purported objective teaching under 35 USC 103 as stated by the rejection. The Federal Circuit explained the burden of establishing the objective teaching to establish a prima facie case of obviousness in *In re Fine*, 5 USPQ2d 1596 (Fed. Cir. 1988) as follows:

[The rejection] can satisfy this burden only by showing some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings of the references.

The teachings and suggestions of Berstis are taken wholly out of context. The Federal Circuit has clearly indicated that statements should not to be taken out of context. In *In re Wright*, 9 USPQ2d 1649 (Fed. Cir. 1989), it states:

The PTO's attempt to show a suggestion of the claimed invention consists of taking statements out of context and given them meanings they would not have had to one of ordinary skill in the art having no knowledge of appellant's invention, or to anyone else who can read the specification with understanding.

It is respectfully submitted that, given the proper teachings of the cited references, the rejection should be withdrawn.

Still further, the claimed invention has enjoyed huge commercial success and this, in and of itself, should be reason enough for the rejection to be withdrawn. It is respectfully submitted that the claimed invention fits wholly within the "classic model" of commercial success. The Federal Circuit has clearly articulated the non-obviousness of products with commercial success such as the claimed invention. *Simmons Fastener Corp. v. Illinois Tools Works, Inc.*, 222 USPQ 744 (Fed. Cir. 1984) summarizes this very clearly as follows:

Evidence of commercial success was so strong that it required reversal of the district court's invalidation of a patent even though that court correctly found that the teachings of the prior art prima facie would have suggested to one of ordinary skill in the claimed invention.

In other words, commercial success is a reason for patentability even in light of obviousness established by the prior art. Although it is respectfully submitted that

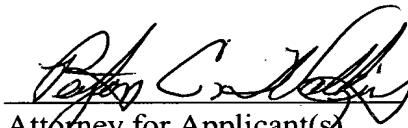
obviousness has not been established in the claimed invention, obviousness is a moot point when commercial success has been established. Therefore, it is respectfully submitted that the rejection be withdrawn.

It is also noted that new claims are added which include the additional limitation of "wireless inserts." This further refines the differences between "battery chargers," which need wires and the claimed invention which does not. The claimed invention includes the advantage of user-friendliness of which Brake et al. is devoid.

Should the Examiner consider that additional amendments are necessary to place the application in condition for allowance, the favor is requested of a telephone call to the undersigned counsel for the purpose of discussing such amendments.

For the reasons set forth above, it is believed that the application is in condition for allowance. Accordingly, reconsideration and favorable action are respectfully solicited.

Respectfully submitted,



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If the Examiner is unable to reach the Applicant(s) Attorney at the telephone number provided, the Examiner is requested to communicate with Eastman Kodak Company Patent Operations at (585) 477-4656.